

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2022

Coram

The Honourable Mr. Justice S.VAIDYANATHAN
and
The Honourable Mr. Justice A.D.JAGADISH CHANDIRA

H.C.P. No.70 of 2022

Selvi

.. Petitioner

Vs.

1. The State of Tamilnadu,
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai - 9.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison,
Central Prison, Salem.
4. The Inspector of Police,
Kitchipalayam Police Station,
Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in C.M.P. No.102/Goonda/Salem City/2021 dated 29.10.2021 on the file of the second respondent and quash the same as illegal and direct the respondent to produce the detenu, Sanjay, S/o. Chinnavar, aged about 20 years, now confined at central prison, Salem, before this Court and set him at liberty.

For Petitioner : Ms. S.Sengkodi

For Respondents : Mr.M.Babu Muthumeeran
Addl. Public Prosecutor

ORDER

S.VAIDYANATHAN, J.,
AND
A.D.JAGADISH CHANDIRA, J.,

The petitioner's is the aunt of Sanjay, aged 20 years, S/o.Chinnavar, who is the detenu. The detenu has been detained by the second respondent by his order in C.M.P. No.102/Goonda/Salem City/2021 dated 29.10.2021, holding him to be a "GOONDA", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the bail application pertaining to the ground case has not been translated in vernacular language. He further submitted that the detaining authority, while detaining the detenu, has not furnished the legible copies of the arrest memo to the detenu. This deprived the detenu from making effective representation. Therefore, on these grounds, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record especially Page Nos.66 & 67 of the booklet, it is clear that the arrest memo pertaining to the ground case has not been translated in vernacular language. Thus the impugned detention order is liable to be set aside on this ground.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P. No.102/Goonda/Salem City/2021 dated 29.10.2021, passed by the second respondent is set aside. The detenu, viz., Sanjay, aged 20 years, S/o.Chinnavar, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

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Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai - 9.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison,
Central Prison, Salem.
4. The Secretary,
Public (Law and Order) Department,
Secretariat, Fort St. George,
Chennai - 9.
5. The Inspector of Police,
Kitchipalayam Police Station,
Salem.
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.70 of 2022

PMK(CO)
UMA(14/07/2022)